REMARKS

In response to the Office Action dated October 14, 2003, Applicants respectfully request reconsideration based on the above amendments and the following remarks. Applicants respectfully submit that the claims as presented are in condition for allowance.

Claims 1-6 were rejected under 35 U.S.C. § 102(e) as being anticipated by United States Application Publication 2002/0141720 to Halgren et al. (hereinafter "Halgren") for the reasons stated on pages 2-4 of the Office Action.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). However, Halgren does not disclose or teach "where one of the inputs is for maintenance purposes and is associated with a maintenance wavelength different than the defined wavelengths used in the event of a failure of one of the defined wavelengths" as claimed in claim 1. Halgren teaches a 16 channel DWDM system that may be used in a symmetric bi-directional mode or asymmetric mode (see paragraph [0025]). Halgren makes no mention of a maintenance input. Paragraph [0032] of Halgren was cited by the Examiner as describing a maintenance input but makes no reference to the elements recited in claim 1.

Thus, Halgren does not disclose or teach all the limitations of claim 1. Accordingly, Halgren neither renders obvious nor anticipates claim 1. Claims 2-5 depend from claim 1, and thus are believed to be allowable due to their dependency on claim 1.

Claims 7-12 and were rejected under 35 U.S.C. § 103(a) as being unpatentable over Halgren for the reasons stated on page 5 of the Office Action.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art; that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references; and that the proposed modification of the prior art must have had a reasonable expectation of success,

determined from the vantage point of the skilled artisan at the time the invention was made. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996). However, Halgren neither teaches or suggests all the limitations of claim 7. As described above with reference to claim 1, Halgren fails to teach "one of the outputs is for maintenance purposes and is associated with a maintenance wavelength different then the defined wavelengths used in the event of a failure of one of the defined wavelengths."

Accordingly, Halgren does not render obvious claim 7. Claims 8-11 depend from claim 7, and thus are believed to be allowable due to their dependency on claim 7.

In view of the foregoing remarks and amendments, Applicants submit that the above-identified application is now in condition for allowance. Early notification to this effect is respectfully requested.

If there are any charges with respect to this response or otherwise, please charge them to Deposit Account 06-1130 maintained by Applicants' attorneys.

Respectfully submitted,

By: _____

David A. Fox
Registration No. 38,807
CANTOR COLBURN LLP
55 Griffin Road South
Bloomfield, CT 06002
Telephone (860) 286-2929
Facsimile (860) 286-0115
Customer No. 36192

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